

**IN THE DISTRICT COURT OF _____ COUNTY, KANSAS
JUVENILE DIVISION**

IN THE MATTER OF:

_____, **juvenile**
DOB: xx-xx-____ A male female

Case No. 20____-JV-_____

SENTENCING ORDER - EXTENDED JURISDICTION JUVENILE PROSECUTION

Pursuant to K.S.A. 38-2361 and 38-2364

On this ____ day of _____ 20____, this matter comes before the Court for sentencing, the Honorable _____, district judge, presiding.

THE COURT FINDS the juvenile named above was previously adjudicated a juvenile offender in this case, the proceedings are designated an extended jurisdiction juvenile prosecution, and jurisdiction and venue are proper. Notice to parties and those required to receive notice has been given as required by law. The victim has been given notice as required.

The State appears by _____, assistant county/district attorney or designee.

The juvenile appears **in person and** **not in person, but** by the juvenile’s attorney, _____.

The mother **is** **is not** present.

The father **is** **is not** present.

- The Court Services Office (CSO) is present through _____
- The Commissioner is present through _____
- Also present is/are: _____

THE COURT, having reviewed the file, received the evidence, and heard statements of counsel, makes the following findings and enters the following orders: *(Select **any** that apply – If committed to the custody of the Commissioner, except for restitution payable by the juvenile offender and requirements specifically mandated by statute, any other orders related to the care and treatment of the juvenile are recommendations only.)*

- The juvenile shall be placed on **probation OR** **Intensive Supervision Probation (ISP)** for a period of _____ pursuant to the terms and conditions **as recommended in the pre-sentence report AND/OR** **as follows:** _____

OR

- The juvenile shall be placed **in a community based program** to be supervised by **court services** **community corrections** **other** _____. The terms and conditions of the order of assignment shall be **those recommended in the pre-sentence report with the AND/OR** **as follows:**_____
-

OR

- The juvenile shall be placed in the custody of **a parent** **OR** **other suitable individual** _____ (but not the Commissioner or juvenile correctional facility), subject to the following terms and conditions: _____ (An Order Authorizing Removal, Form 312, must be filed if this is the first order removing the juvenile from the home in the present case.)

OR

- The juvenile shall be placed in the custody of the Commissioner (JJA). The Court recommends: _____

(An Order Authorizing Removal, Form 312, must be entered if this is the first order removing the juvenile from the home in the present case.)

OR

- The juvenile shall be committed to a sanctions house for _____ (a period no longer than 28 days) and the Court shall review the commitment every seven days. The Court also orders: _____

(An Order Authorizing Removal, Form 312, must be entered if this is the first order removing the juvenile from the home in the present case.)

OR

- The juvenile meets placement criteria as a (check the **one** relevant Matrix category box, then specify: (1) the length of confinement, (2) period of aftercare, and (3) calculate the sentence begins date after crediting time served):
- Violent Offender I Violent Offender II
 - Serious Offender I Serious Offender II
 - Chronic Offender I Chronic Offender II Chronic Offender III
 - Conditional Release Violator

and shall be committed to the custody of the Commissioner for a period of confinement in a juvenile correctional facility and of aftercare as follows: _____

The **sentence begins date** is determined to be ____/____/20__ **after crediting** the juvenile with _____ **days** of time served. (An Order Authorizing Removal, Form 312, must be entered if this is the first order removing the juvenile from the home in the present case.)

AND IF APPLICABLE

(Select **any** of the following that apply)

- THE COURT FURTHER FINDS: A drug and alcohol evaluation **is not** OR **is** mandated by statute (specifically K.S.A. ____ - _____) (insert relevant statutory provision) and orders a drug and alcohol evaluation to be conducted as follows: _____

The court finds that the juvenile offender shall pay a fee of \$ _____ OR the juvenile offender and those legally liable for the juvenile's support are indigent and the court waives the fee.

IF APPLICABLE

- THE COURT FURTHER FINDS: The juvenile's driver's license or privilege to operate a motor vehicle on the streets and highways of this state is suspended or restricted pursuant to the attached order. (Form 356 must be completed specifying all orders of the Court pursuant to K.S.A. 38-2361(a)(5) and (c)).

IF APPLICABLE

- THE COURT FURTHER FINDS: _____

- THE COURT FURTHER ORDERS: _____

IF APPLICABLE

- THE COURT FURTHER FINDS AND ORDERS: The juvenile has been removed from the custody of a parent and the approved permanency plan goal(s) is/are: _____

A permanency plan **is on file** **shall be submitted** to the court within 30 days by the custodian / Court Services / other _____. (This section must be completed if the juvenile is presently or, as a result of this order, will be removed from parental custody.)

THE ADULT CRIMINAL SENTENCE imposed is contained in the Journal Entry of Judgment attached hereto and incorporated herein by reference. The execution of the adult sentence is hereby

stayed so long as the juvenile offender does not violate the provisions of the juvenile sentence or does not commit a new offense.

THE COURT FURTHER ORDERS this matter set for a _____ hearing before **the Court** **the Citizens Review Board** on the _____ day of _____ 20____ at ____:____ a.m. / p.m.

IT IS SO ORDERED THIS _____ DAY OF _____ 20____.

Judge of the District Court

Prepared by:

Acknowledged by:

Assistant County/District Attorney #

Attorney for Juvenile #

Authority

K.S.A. 38-2361, 38-2364, and 38-2365.

Notes on Use

In an extended jurisdiction juvenile prosecution, a juvenile sentence and an adult criminal sentence are imposed upon the juvenile offender. K.S.A. 38-2364(a). The adult sentence is stayed, unless the juvenile offender violates the provisions of the juvenile sentence or commits a new offense. This form includes all of the specific placements and probationary supervision options that the statute and current state-wide programs provide for juveniles, as well as a reference to the adult sentence, a copy of which is to be attached to this journal entry / order. Subsection (a)(10) provides that a juvenile offender placed in the custody of the commissioner shall not also be placed in the custody of another person pursuant to subsection (a)(3) or for confinement in a juvenile correctional facility pursuant to subsection (a)(12). If the juvenile offender is placed in the custody of the commissioner, then orders for services pursuant to subsections (a)(2) relating to participation in community based programs, (a)(4) relating to attendance of counseling, mediation or a drug evaluation, and (a)(9) relating to house arrest, shall be deemed recommendations, unless a drug and alcohol evaluation is mandated by statute. If, in the course of sentencing, the court removes the juvenile from the home, and if it is the first order removing the juvenile from the home, Supreme Court Administrative Order No. 155 and ASFA apply and Form 312, or another ASFA form approved by the Supreme Court, must be completed and attached to Form 351 for filing.

Although the provision for direct commitment of the juvenile to the commissioner's custody for confinement in a juvenile correctional facility, pursuant to K.S.A. 38-2361(a)(12), specifically excuses a case from compliance with the permanency planning requirements set out in K.S.A. 38-2365 while the juvenile is confined in a juvenile correctional facility, the best practice is to comply with ASFA and permanency planning requirements, which are set out in the form. There is a narrow set of circumstances in which ASFA may actually apply and permit federal funding for a subsequent placement, if the case is ASFA-compliant at this point. The 2010 Legislature amended the provisions of K.S.A. 38-2361(a)(12) to include a requirement that the court must set and hold a permanency hearing within seven days after the juvenile's release. Permanency hearings must be held every twelve (12) months thereafter as required by K.S.A. 38-2365(e) until the juvenile is discharged from custody pursuant to K.S.A. 38-2376(a). If held immediately before release and the juvenile is placed in an eligible placement after release, this will permit the state to immediately draw down Title IV funding, thus avoiding a loss of funding for communities.

Although the court may order a drug and alcohol evaluation pursuant to K.S.A. 38-2361(a)(4) and (b)(2), the fee is payable by the juvenile offender in an amount not to exceed the fee established by the relevant statute providing for such evaluation. The court may waive the evaluation under certain circumstances described in K.S.A. 38-2361(b)(2). If the juvenile offender and those legally liable for the juvenile's support are indigent, the court may waive the fee. In no event shall the fee be assessed against the commissioner or the juvenile justice authority, or the secretary or department of social and rehabilitation services if the juvenile is in the secretary's care custody and control.

Although proceedings under the juvenile justice code are considered civil proceedings, an adjudication as a juvenile offender may be a consideration in the imposition of an adult sentence for a subsequent conviction under the criminal code. See *In re Gault*, 387 U.S. 1, 18 L. Ed. 2d 527, 87 S. Ct. 1428 (1967); *Apprendi v. New Jersey*, 530 U.S. 466, 120 S. Ct. 2348, 147 L. Ed. 2d 435 (2000); *State v. Limon*, 280 Kan. 275, 283, 122 P.3d 22 (2005).